

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**IN RE METHYL TERTIARY BUTYL ETHER
PRODUCTS LIABILITY LITIGATION**

This document pertains to:

*New Jersey Department of Environmental
Protection, et al. v. Atlantic Richfield Co., et al.,
No. 08 Civ. 312*

**Master File No. 1:00 – 1898
MDL 1358 (SAS)
M21-88**

**SHELL’S NOTICE OF MOTION AND MOTION FOR
PARTIAL SUMMARY JUDGMENT ON PLAINTIFFS’ CLAIM FOR
PRIMARY RESTORATION AT THE RIDGEWOOD TRIAL SITE**

PLEASE TAKE NOTICE that Defendants Shell Oil Company, Shell Oil Products Company LLC, Shell Trading (US) Company, Equilon Enterprises LLC, and Motiva Enterprises LLC (collectively “Shell”) hereby move this Court, pursuant to Federal Rule of Civil Procedure 56 for an Order granting partial summary judgment on Plaintiffs’ claim for what they call “primary restoration” damages at the Ridgewood Trial Site.

This Motion is brought on the grounds that Shell has remediated the Ridgewood Site to the satisfaction of NJDEP, and NJDEP cannot meet its burden to prove that additional “primary restoration” is necessary to protect flora, fauna or human health, safety or welfare at the Ridgewood Site . A claim for additional “investigation” cannot meet that standard. Shell is therefore entitled to partial summary judgment on Plaintiffs’ claim for “primary restoration” damages at the Ridgewood Site.

This Motion is and will be based on the memorandum filed in support hereof and accompanying materials filed with the Court, this Notice and Motion, Shell’s Rule 56.1 Statement of Material Facts, the declarations of Richard E. Wallace, Jr. and Julian Davies, the

pleadings and other documents on file in this action and other actions pending in the MDL, and such other argument and evidence as the Court may consider at any hearing of the Motion.

Dated: October 1, 2013

Respectfully submitted,

/s Richard E. Wallace, Jr.

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PROOF OF SERVICE VIA LEXIS/NEXIS FILE & SERVE AND E-MAIL

I, Kristin McCormick, hereby declare under penalty of perjury under the laws of the United States of America that a true and accurate copy of the foregoing was served via Lexis/Nexis File & Serve and ECF on all parties on this 1st day of October 2013.

_____/s/ Kristin McCormick
Kristin McCormick